

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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VANESSA RODRIGUEZ,

19 Civ.

Plaintiff,

- against -

COMPLAINT

MAMMA RISTORANTE CORP. d/b/a/
GUANTANAMERA,

PLAINTIFF DEMANDS
TRIAL BY JURY IN
IN THIS ACTION

Defendant.

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Plaintiff Vanessa Rodriguez ("Rodriguez"), by her attorneys, Lichten & Bright, P.C., complains of defendant Mamma Ristorante Corp. ("Guantanamera"), as follows:

JURISDICTION AND VENUE

1. This is an action brought to remedy discrimination on the basis of sex, and retaliation for protected activity, in violation of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq. ("Title VII"), the New York State Human Rights Law, Executive Law § 290 et seq. ("Human Rights Law"), and the Administrative Code of the City of New York, § 8-101 et seq. ("Administrative Code").

2. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1331, 1343(a)(4), and 1367, and 42 U.S.C. § 2000e-5(f)(3).

3. Declaratory and injunctive relief, damages, and other appropriate legal and equitable relief are sought pursuant to 42 U.S.C. § 2000e-5(f), (g)(1), and (g)(2)(B)(i). Compensatory damages are sought pursuant to 42 U.S.C. § 1981a, Executive Law

§ 297(9), and Administrative Code, § 8-402(a). Punitive damages are sought pursuant to 42 U.S.C. § 1981a and Administrative Code, § 8-402(a).

4. Costs and attorney fees are sought pursuant to 42 U.S.C. § 2000e-5(g)(2)(B)(i) and (k), Executive Law § 297(10), and Administrative Code, § 8-402(a).

5. Venue is proper in the Southern District of New York, pursuant to 28 U.S.C. § 1391(b), because the unlawful employment practices occurred within this judicial district.

6. Plaintiff filed a charge of discrimination against defendant with the U.S. Equal Employment Opportunity Commission ("EEOC") on February 22, 2019. The EEOC, on September 13, 2019, issued plaintiff a notice informing her of her right to sue defendant. Plaintiff has fully complied with all prerequisites to jurisdiction in this Court under Title VII.

PARTIES

7. Guantanamera is a restaurant. Its principal place of business is at 939 Eighth Avenue, New York, New York.

8. Rodriguez was employed by Guantanamera as a bartender.

FACTS

9. On January 1, 2019, a prep cook/dishwasher grabbed Rodriguez, attempted to forcibly kiss and hug her, and when Rodriguez resisted, grabbed her breast.

10. On January 2, 3, and 4, Rodriguez complained that Guantamera was doing nothing substantive about the sexual assault.

11. On January 5, at approximately 10:00 P.M., Rodriguez complained to Owner Marion Zarate that the restaurant was not responding appropriately to the sexual assault.

12. Zarate screamed at Rodriguez, "Get the fuck out of my restaurant! Get the hell out of here! I don't want you in my restaurant! You're fired!"

13. Rodriguez left the restaurant. On January 6, at approximately 12:30 A.M., Rodriguez arranged with Manager Evalina Klopocka for Rodriguez to pick up her final paycheck at around noon later that day.

14. On January 6, Rodriguez picked up her final paycheck. No one from Guantanamera mentioned reinstatement to her.

FIRST CAUSE OF ACTION

15. Defendant maintained a hostile work environment based on sex discrimination. By its acts and practices described above, defendant has violated Title VII.

16. As a result of defendant's discriminatory acts, plaintiff has suffered and will continue to suffer monetary damages and damages for mental anguish and humiliation unless and until this Court grants relief. Defendant engaged in these retaliatory practices with malice and with reckless indifference to Rodriguez's rights protected under law.

SECOND CAUSE OF ACTION

17. Defendant subjected plaintiff to a hostile work environment because of her sex, in violation of the Human Rights Law.

18. As a result of defendant's discriminatory acts, plaintiff has suffered and will continue to suffer monetary damages and damages for mental anguish and humiliation unless and until this Court grants relief. Defendant willfully and maliciously engaged in these discriminatory practices.

THIRD CAUSE OF ACTION

19. Defendant subjected plaintiff to a hostile work environment because of her sex, in violation of the Administrative Code.

20. As a result of defendant's discriminatory acts, plaintiff has suffered and will continue to suffer monetary damages and damages for mental anguish and humiliation unless and until this Court grants relief. Defendant willfully and maliciously engaged in these discriminatory practices.

FOURTH CAUSE OF ACTION

21. Defendant discharged Rodriguez because she opposed actions prohibited by Title VII. By its acts and practices described above, defendant has violated Title VII.

22. As a result of defendant's retaliatory acts, plaintiff has suffered and will continue to suffer monetary damages and

damages for mental anguish and humiliation unless and until this Court grants relief. Defendant engaged in these retaliatory practices with malice and with reckless indifference to Rodriguez's rights protected under law.

FIFTH CAUSE OF ACTION

23. Defendant discharged Rodriguez because she opposed actions prohibited by the Human Rights Law. By its acts and practices described above, defendant has violated the Human Rights Law.

24. As a result of defendant's retaliatory acts, plaintiff has suffered and will continue to suffer monetary damages and damages for mental anguish and humiliation unless and until this Court grants relief. Defendant willfully and maliciously engaged in these discriminatory practices.

SIXTH CAUSE OF ACTION

25. Defendant discharged Rodriguez because she opposed actions prohibited by the Administrative Code. By its acts and practices described above, defendant has violated the Administrative Code.

26. As a result of defendant's retaliatory acts, plaintiff has suffered and will continue to suffer monetary damages and damages for mental anguish and humiliation unless and until this Court grants relief. Defendant willfully and maliciously engaged in these discriminatory practices.

WHEREFORE, plaintiff respectfully requests that this Court enter a judgment:

ON THE FIRST AND FOURTH CAUSES OF ACTION

- (a) declaring that the acts and practices complained of herein are in violation of Title VII;
- (b) enjoining and permanently restraining these violations of Title VII;
- (c) directing defendant to take such affirmative action as is necessary to ensure that the effects of these unlawful employment practices are eliminated and do not continue to affect plaintiff's employment opportunities;
- (d) directing defendant to place plaintiff in the position she would have continued to occupy but for defendant's discriminatory and retaliatory treatment of her, and make her whole for all earnings she would have received but for defendant's discriminatory and retaliatory treatment, including but not limited to wages, bonuses, pensions, and other lost benefits;
- (e) directing defendant to pay plaintiff compensatory and punitive damages and damages for her mental anguish and humiliation;
- (f) awarding plaintiff reasonable attorney fees and the costs of this action;
- (g) granting such other and further relief as this Court deems just and proper;

ON THE SECOND AND FIFTH CAUSES OF ACTION

(h) awarding compensatory damages in an amount not yet ascertained;

(i) awarding reasonable attorney fees, costs, and disbursements;

ON THE THIRD AND SIXTH CAUSES ACTION

(j) awarding compensatory and punitive damages in an amount not yet ascertained; and

(k) awarding reasonable attorney fees, costs, and disbursements.

DEMAND FOR A TRIAL BY JURY

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, plaintiff demands a trial by jury on all of the causes of action herein.

Dated: New York, New York
September 19, 2019



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